

HOUSE BILL NO. 503

INTRODUCED BY B. MCCHESENEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IT IS LAWFUL TO WAGER ON A PARIMUTUEL FANTASY SPORTS LEAGUE CONDUCTED BY A PARIMUTUEL FACILITY; CLARIFYING THAT A PARIMUTUEL NETWORK MUST BE A PRIVATE SECTOR ENTITY; PROVIDING THAT ALL LICENSING AND REGULATION OF PARIMUTUEL FANTASY SPORTS LEAGUES BE BY THE DEPARTMENT OF JUSTICE; PROVIDING THAT A PORTION OF THE PAYOUT FROM WAGERING ON PARIMUTUEL FANTASY SPORTS LEAGUES BE DEPOSITED IN THE HEALTH AND MEDICAID INITIATIVES ACCOUNT; AND AMENDING SECTIONS 23-4-101, 23-4-104, 23-4-201, 23-4-202, 23-4-301, 23-4-302, 23-4-304, 23-5-112, 23-5-801, 23-5-802, 23-5-805, 23-5-806, AND 53-6-1201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-4-101, MCA, is amended to read:

"23-4-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advance deposit wagering" means a form of parimutuel wagering in which a person deposits money in an account with an advance deposit wagering hub operator licensed by the board to conduct advance deposit wagering. The money is used to pay for parimutuel wagers made in person, by telephone, or through a communication by other electronic means on horse or greyhound races held in or outside this state.

(2) "Advance deposit wagering hub operator" means a simulcast and interactive wagering hub business licensed by the board that, through a subscriber-based service located in this or another state, conducts parimutuel wagering on the races that it simulcasts and on other races that it carries in its wagering menu and that uses a computer that registers bets and divides the total amount bet among those who won.

(3) "Board" means the board of horseracing provided for in 2-15-3106.

(4) "Board of stewards" means a board composed of three stewards who supervise race meets.

(5) "Department" means the department of livestock provided for in Title 2, chapter 15, part 31.

~~(6) "Fantasy sports league" has the meaning provided in 23-5-801.~~

~~(7)~~(6) "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of an

1 official or licensee regulated by this chapter who have a permanent or continuous residence in the household of
2 the official or licensee and all other persons who have a permanent or continuous residence in the household of
3 the official or licensee.

4 ~~(8)~~(7) "Match bronc ride" means a saddle bronc riding contest consisting of two sections known as a
5 "long go" and a "short go" in which the win, place, and show winners are determined by judges of the rides for
6 each go.

7 ~~(9)~~(8) "Minor" means a person under 18 years of age.

8 ~~(10)~~ "Parimutuel facility" means a facility licensed by the board at which fantasy sports leagues are
9 conducted and wagering on the outcome under a parimutuel system is permitted.

10 ~~———(11)~~ "Parimutuel network" means an association licensed by the board to compile and distribute fantasy
11 sports league rosters and weekly point totals for licensed parimutuel facilities and to manage statewide parimutuel
12 wagering pools on fantasy sports leagues.

13 ~~(12)~~(9) "Persons" means individuals, firms, corporations, fair boards, and associations.

14 ~~(13)~~(10) (a) "Race meet" means racing of registered horses or mules, match bronc rides, and wild horse
15 rides at which the parimutuel system of wagering is used. The term includes horseraces, mule races, and
16 greyhound races that are simulcast.

17 (b) The term does not include live greyhound racing.

18 ~~(14)~~(11) "Racing" means live racing of registered horses or mules and simulcast racing of horses, mules,
19 and greyhounds.

20 ~~(15)~~(12) "Simulcast" means a live broadcast of an actual horserace, mule race, or greyhound race at the
21 time it is run. The term includes races of local or national prominence.

22 ~~(16)~~(13) "Simulcast facility" means a facility at which horseraces, mule races, or greyhound races are
23 simulcast and wagering on the outcome is permitted under the parimutuel system.

24 ~~(17)~~ "Simulcast parimutuel network" means an association licensed by the board to receive or originate
25 intrastate and interstate simulcast race signals, relay the race signals to licensed simulcast facilities, and manage
26 statewide parimutuel wagering pools on simulcast races. A simulcast parimutuel network may be licensed by the
27 board to operate a statewide parimutuel wagering pool for fantasy sports leagues.

28 ~~(18)~~(14) "Source market fee" means the portion of a wager made with a licensed advance deposit
29 wagering hub operator by a Montana resident that is paid to the board.

30 ~~(19)~~(15) "Steward" means an official hired by the department and by persons sponsoring a race meet

1 to regulate and control the day-to-day conduct and operation of a sanctioned meet.

2 ~~(20)(16)~~ "Wild horse ride" means a wild horse riding contest in which three-person teams attempt to
3 saddle a wild horse and ride it completely around a track with the first to do so declared the winner."

4
5 **Section 2.** Section 23-4-104, MCA, is amended to read:

6 **"23-4-104. Duties of board.** The board shall adopt rules to govern race meets and the parimutuel
7 system. These rules ~~shall~~ must include the following:

- 8 (1) definitions;
- 9 (2) auditing;
- 10 (3) supervision of the parimutuel system;
- 11 (4) corrupt practices;
- 12 (5) supervision, duties, and responsibilities of the executive secretary, presiding steward, racing
13 secretary, and other racing officials;
- 14 (6) licensing of all personnel who have anything to do with the substantive operation of racing;
- 15 (7) the establishment of dates for race meets and meetings in the best interests of breeding and racing
16 in this state;
- 17 (8) the veterinary practices and standards that must be observed in connection with race meets;
- 18 (9) absolute responsibility of trainers for the condition of horses and mules, regardless of the acts of third
19 parties;
- 20 (10) licensing or renewal of a license of a person whose license has been suspended by the board or
21 another horseracing jurisdiction;
- 22 (11) setting license fees commensurate with the cost of issuing a license;
- 23 (12) the time, conduct, and supervision of simulcast races ~~and fantasy sports leagues~~ and parimutuel
24 betting on simulcast races ~~and fantasy sports leagues~~;
- 25 (13) licensing, approval, and regulation of simulcast facilities; and
- 26 (14) licensing, approval, and regulation of match bronc rides and wild horse rides."

27
28 **Section 3.** Section 23-4-201, MCA, is amended to read:

29 **"23-4-201. Licenses.** (1) A person may not hold a race meet, including simulcast race meets under the
30 parimutuel system, ~~or conduct fantasy sports league wagering through a parimutuel facility, parimutuel network,~~

1 ~~or a simulcast parimutuel network conducting a fantasy sports league~~ in this state without a valid license issued
2 by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall
3 file with the department an application that must set forth the time, place, and number of days the license will
4 continue and other information the board requires.

5 (2) A person who participates in a race meet, except for a match bronc ride or a wild horse ride, must
6 be licensed and charged an annual fee set by the board. The annual fee must be paid to the department and
7 used for expenses of administering this chapter. Each person holding a license under this chapter shall comply
8 with this chapter and with the rules adopted and orders issued by the board.

9 (3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required
10 under this chapter.

11 (4) An application to hold a race meet must be submitted to the department, and the board shall act on
12 the application within 30 days. The board is the sole judge of whether the race meet may be licensed and the
13 number of days the meet may continue.

14 (5) The board shall require that a fair board and an independent racing association conducting a race
15 meet comply with the requirements of the rules adopted by the board before granting a license.

16 (6) A racing association consisting of a local fair board or an association approved by a local fair board
17 may apply for a license to hold a simulcast race meet in a simulcast facility.

18 (7) An unexpired license held by a person who violates this chapter or who fails to pay to the department
19 the sums required under this chapter is subject to cancellation and revocation by the board.

20 ~~(8) A license to operate a parimutuel facility conducting fantasy sports league wagering may not be~~
21 ~~issued to an applicant unless the applicant is also licensed under Title 23, chapter 5."~~

22
23 **Section 4.** Section 23-4-202, MCA, is amended to read:

24 **"23-4-202. Penalty for violations of law -- authority of board -- judicial review.** (1) ~~(a)~~ A person
25 holding a race meet or an owner, trainer, or jockey participating in a race meet, except a participant in a match
26 bronc ride or a wild horse ride, without first being licensed under this chapter or a person violating this chapter
27 is guilty of a misdemeanor.

28 ~~(b) A person operating a parimutuel facility, parimutuel network, or simulcast parimutuel network that~~
29 ~~conducts fantasy sports league wagering without first being licensed under this chapter or a person violating this~~
30 ~~chapter is guilty of a misdemeanor.~~

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which the stewards officiate may exclude from racecourses a person whom the board or board of stewards considers detrimental to the best interest of racing as defined by rules of the board.

(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may prohibit application for relicensure for a 2-year period. Fines collected under this subsection must be deposited in the general fund.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed under this chapter. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of a summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 3% of exotic wagering on races, including simulcast races, to be deposited in a state special revenue account and statutorily appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses except stakes races;

(f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated;

(g) definition of exotic forms of wagering on races to be allowed;

(h) standards for simulcast facilities;

(i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races;

~~(j) conduct and supervision of parimutuel facilities, parimutuel networks, simulcast parimutuel networks, and parimutuel wagering on fantasy sports leagues conducted at parimutuel facilities;~~

~~(k)(i)~~ (j) conduct and supervision of match bronc rides and wild horse rides; and

~~(k)(k)~~ (k) conduct and supervision of advance deposit wagering.

(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter."

Section 5. Section 23-4-301, MCA, is amended to read:

"23-4-301. Parimutuel betting -- other betting illegal. (1) It is unlawful to make, report, record, or register a bet or wager on the result of a contest of speed, skill, or endurance of an animal, whether the contest is held within or outside this state, except under 23-5-502 or this chapter.

(2) A licensee conducting a race meet under this chapter may provide a place in the race meet grounds or enclosure where the licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted under this chapter and the rules of the board.

(3) A person licensed under this chapter to hold a race meet may simulcast live races at a place in the race meet grounds or simulcast facility where the licensee may conduct or supervise the use of the parimutuel system by patrons on the results of simulcast races approved by the board.

(4) It is unlawful to conduct pool selling or bookmaking or to circulate handbooks or to bet or wager on a race of a licensed race meet, other than by the parimutuel system and in the race meet grounds or enclosure where the race is held, or to permit a minor to use the parimutuel system.

(5) Each licensee conducting a parimutuel system for an intrastate simulcast race meet shall combine the parimutuel pools at a simulcast facility with those at the actual racing facility for the purpose of determining the odds and computing payoffs. The amount of the handle at the simulcast race meet must be combined with the amount of the parimutuel handle at the live racing facility for the purposes of distribution of money derived from parimutuel betting under 23-4-302 and 23-4-304.

(6) Negotiated purse money from intrastate and interstate simulcast parimutuel handles at racing associations that do not conduct live racing ~~will~~ must be pooled and distributed to all tracks conducting live racing. All money must be distributed on a percentage, based on each track's percent, of the total annual on-track parimutuel handle.

(7) The board may license an advance deposit wagering hub operator to conduct advance deposit wagering. Advance deposit wagering is prohibited and illegal unless it is conducted through an advance deposit wagering hub operator licensed by the board. A licensed advance deposit wagering hub operator:

(a) may accept advance deposit wagering money for races conducted by a licensed race meet;

(b) may not accept a wager in an amount in excess of the money on deposit in the account of a person

1 who wishes to make the wager;

2 (c) may not allow a person under 18 years of age to open an account with the advance deposit wagering
3 hub operator, make a wager from an account, or otherwise have access to an account;

4 (d) shall include a statement in any of its advertising for advance deposit wagering that a person under
5 18 years of age is not allowed to participate;

6 (e) shall verify the identification, residence, and age of each person seeking to open an advance deposit
7 wagering account;

8 (f) shall agree to pay to the board a source market fee in an amount equal to a percentage, as set forth
9 in its license agreement, of the total amount wagered by Montana residents from their accounts with the advance
10 deposit wagering hub operator; and

11 (g) shall agree to a payment schedule of source market fees as set forth in its license agreement.

12 ~~(h) It is unlawful to:~~

13 ~~—— (a) conduct pool selling or bookmaking or to wager on a fantasy sports league other than by the~~
14 ~~parimutuel system and by being physically present at the licensed parimutuel facility;~~

15 ~~—— (b) permit a minor to use the parimutuel system; or~~

16 ~~—— (c) conduct internet or telephone wagering on fantasy sports leagues."~~

17
18 **Section 6.** Section 23-4-302, MCA, is amended to read:

19 **"23-4-302. Distribution of deposits -- breakage.** (1) Each licensee conducting the parimutuel system
20 for a simulcast race meet shall distribute all funds deposited in any pool to the winner of the parimutuel pool, less
21 an amount that in the case of exotic wagering on races may not exceed 26% and in all other races may not
22 exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited
23 exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

24 (2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds
25 deposited with the licensee in any pool for the simulcast race meet, less an amount that in the case of exotic
26 wagering on these races may not exceed 26%, unless the signal originator percentage is higher, in which case
27 the Montana simulcast licensee may adopt the same percentage withheld as the place where the signal
28 originated, and that in all other of these races may not exceed 20% of the total deposits plus the odd cents of all
29 redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10,
30 known as "breakage".

(3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of the total amount wagered on the race meet and deposit it in a state special revenue account. The funds deposited are statutorily appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(4) (a) Source market fees from licensed advance deposit wagering hub operators must be deposited by the board in the board's state special revenue account.

(b) The board shall pay 80% of the source market fees generated between May 1 and the following April 30 to live race meet licensees based on each live race meet licensee's percentage of the total annual on-track parimutuel handle during the previous live race season. Prior to the beginning of each year's live race season, the correct percentage must be distributed by the board to each live race meet licensee to be used for race purses or other purposes that the board considers appropriate for the good of the horseracing industry.

(c) Ten percent of the source market fees paid to the board in a calendar year may be retained by the board for the payment of administrative expenses. One-half of the remaining 10% of the source market fees paid to the board in a calendar year must, by January 31 of the following calendar year, be paid to the owner bonus program and the other one-half to the breeder bonus program.

~~(5) (a) The parimutuel network licensee conducting fantasy sports league wagering shall distribute all funds deposited in the pool to the winner of the parimutuel pool less the takeout amount of 26% of the total deposits.~~

~~———— (b) The takeout amount must be distributed as follows:~~

~~———— (i) 15.3846% to the parimutuel facility licensee;~~

~~———— (ii) 23.0769% to the parimutuel network licensee as an administrative fee; and~~

~~———— (iii) 61.5385% to the board's special revenue account. No more than \$316,000 for fiscal year 2008, or 10% for succeeding fiscal years, of the amount collected under this subsection (5)(b)(iii) may be appropriated by the legislature for administration of this chapter. The remaining portion collected under this subsection (5)(b)(iii) is statutorily appropriated, as provided in 17-7-502, to the board for distribution to live race purses and for other purposes that the board considers appropriate for the good of the existing horseracing industry.~~

~~———— (c) The odd cents of all redistribution based on each dollar deposited that exceeds a sum equal to the next lowest multiple of 10, known as "breakage", as well as unclaimed winning tickets from each parimutuel pool, must be distributed to the parimutuel network licensee."~~

1
2 **Section 7.** Section 23-4-304, MCA, is amended to read:

3 **"23-4-304. Gross receipts -- department's percentage -- collection and allocation.** (1) (a) Each live
4 race meet licensee shall pay to the department within 5 days following receipt by the licensee 1% of the gross
5 receipts of each day's parimutuel betting at each race meet. At the end of each race meet the licensee shall
6 prepare a report to the department showing the amount of the overpayments and underpayments. If the report
7 shows the underpayments to be in excess of the overpayments, the balance must be paid to the department.
8 Money paid to the department may be used for the expenses incurred in carrying out this chapter. The licensee
9 shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on
10 races. These funds must be deposited in a state special revenue account. The board shall then distribute all funds
11 collected under 23-4-202(4)(d) to live race purses or for other purposes that the board considers appropriate for
12 the good of the existing horseracing industry.

13 (b) Each licensed simulcast facility shall pay to the department either 1% of the gross receipts of each
14 day's parimutuel betting at each race meet or the actual cost to the board of regulating the simulcast race meet,
15 whichever is higher. The money must be paid to the department within 5 days after receipt of the money by the
16 licensee. At the end of each race meet the licensed simulcast facility shall prepare a report to the department
17 showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in
18 excess of the overpayments, the balance must be paid to the department. Money paid to the department must
19 be deposited in an account in the state special revenue fund and must be used for the administration of this
20 chapter. The licensed simulcast facility shall, at the same time, pay to the department all funds collected under
21 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in a state special revenue account.
22 The board shall then distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes
23 that the board considers appropriate for the good of the existing horseracing industry.

24 ~~(c) The licensed parimutuel network conducting fantasy sports league wagering shall pay the funds~~
25 ~~distributed pursuant to 23-4-302(5)(b)(iii) to the department within 10 days after receipt of the money by the~~
26 ~~licensee.~~

27 (2) Prior to the beginning of the live racing season, funds collected under 23-4-202(4)(d) must be
28 distributed by the department, after first passing through a state special revenue account, to be used for race
29 purses that are distributed to each live race meet by the board or for other purposes that the board considers
30 appropriate for the good of the horseracing industry.

1 (3) ~~Except for funds collected under subsection (1)(c), the~~ The funds collected under this section and
2 deposited in a state special revenue account are statutorily appropriated to the board as provided in 17-7-502."

3
4 **Section 8.** Section 23-5-112, MCA, is amended to read:

5 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts
6 1 through 8 of this chapter:

7 (1) "Applicant" means a person who has applied for a license or permit issued by the department
8 pursuant to parts 1 through 8 of this chapter.

9 (2) "Application" means a written request for a license or permit issued by the department. The
10 department shall adopt rules describing the forms and information required for issuance of a license.

11 (3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected
12 by the department and that randomly selects the numbers.

13 (4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns
14 of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above
15 one of the columns. More than 75 numbers may not be used. One number must appear in each square, except
16 for the center square, which may be considered a free play. Numbers are randomly drawn using authorized
17 equipment until the game is won by the person or persons who first cover one or more previously designated
18 arrangements of numbers on the bingo card.

19 (5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces
20 the order of the numbers drawn in live bingo.

21 (6) "Card game table" or "table" means a live card game table:

22 (a) authorized by permit and made available to the public on the premises of a licensed gambling
23 operator; or

24 (b) operated by a senior citizen center.

25 (7) "Card game tournament" means a gambling activity for which a permit has been issued involving
26 participants who pay valuable consideration for the opportunity to compete against each other in a series of live
27 card games conducted over a designated period of time.

28 (8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

29 (9) "Department" means the department of justice.

30 (10) "Distributor" means a person who:

1 (a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of any
2 kind for use in gambling activities; and

3 (b) sells the equipment to a licensed distributor, route operator, or operator.

4 (11) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property, or
5 other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling
6 device or gambling enterprise.

7 (b) The term does not mean conducting or participating in a promotional game of chance and does not
8 include amusement games regulated by Title 23, chapter 6, part 1.

9 (c) The term does not include social card games played solely for prizes of minimal value, defined as
10 class I gaming by 25 U.S.C. 2703.

11 (12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot
12 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling
13 activity.

14 (13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme,
15 or agreement to provide gambling or a gambling device to the public.

16 (14) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property to
17 be awarded by purchasing or agreeing to purchase goods or services.

18 (b) The term does not mean:

19 (i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural
20 fairs and rodeo associations may give away at public drawings at fairs and rodeos;

21 (ii) a promotional game of chance; or

22 (iii) an amusement game regulated under Title 23, chapter 6.

23 (15) "Gross proceeds" means gross revenue received less prizes paid out.

24 (16) "House player" means a person participating in a card game who has a financial relationship with
25 the operator, card room contractor, or dealer or who has received money or chips from the operator, card room
26 contractor, or dealer to participate in a card game.

27 (17) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the
28 rules of the department. The term includes:

29 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match
30 numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip

board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, or under part 5 of this chapter or in a promotional game of chance approved by the department; and

(b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps table, or slot machine, except as provided in 23-5-153.

(18) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

(c) sports betting, by whatever name known, in which a person places a wager on the outcome of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

(d) credit gambling; and

(e) internet gambling.

(19) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of any legal or illegal gambling enterprise through the use of communications technology that allows a person using money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any other instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes, or other similar information.

(b) The term does not include the operation of a simulcast facility or advance deposit wagering with a licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for in Title 23, chapter 7. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes and with administrative regulations of the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

(20) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(21) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(22) "License" means a license for an operator, dealer, card room contractor, manufacturer of devices not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

(23) "Licensee" means a person who has received a license from the department.

(24) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator or in a senior citizen center.

(25) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance.

(b) The term does not mean lotteries authorized under Title 23, chapter 7.

(26) "Manufacturer" means a person who:

(a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route operator, or operator; or

(b) possesses gambling devices or components of gambling devices for the purpose of testing them.

(27) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity.

(28) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through 8 of this chapter.

(29) "Parimutuel facility" means a facility licensed by the department at which parimutuel fantasy sports leagues are conducted and wagering on the outcome under a parimutuel system is permitted.

(30) "Parimutuel fantasy sports league" means a fantasy sports league that is organized pursuant to the provisions of Title 23, chapter 5, part 8, and that allows parimutuel wagering.

(31) "Parimutuel network" means a private sector association licensed by the department to compile and distribute parimutuel fantasy sports league rosters and weekly point totals for licensed parimutuel facilities and

1 to manage statewide parimutuel wagering pools on parimutuel fantasy sports leagues.

2 ~~(29)~~(32) "Permit" means approval from the department to make available for public play a gambling
3 device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

4 ~~(30)~~(33) "Person" or "persons" means both natural and artificial persons and all partnerships,
5 corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

6 ~~(31)~~(34) "Premises" means the physical building or property within or upon which a licensed gambling
7 activity occurs, as stated on an operator's license application and approved by the department.

8 (35) "Private sector" means an entity or individual associated or involved in commercial activity and that
9 is not principally a part of or associated with a government unit.

10 ~~(32)~~(36) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or
11 distribution of property among persons who have not paid or are not expected to pay any valuable consideration
12 or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the
13 property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling
14 enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the
15 department that was manufactured or intended for use for purposes other than gambling.

16 ~~(33)~~(37) "Public gambling" means gambling conducted in:

17 (a) a place, building, or conveyance to which the public has access or may be permitted to have access;

18 (b) a place of public resort, including but not limited to a facility owned, managed, or operated by a
19 partnership, corporation, association, club, fraternal order, or society, including a religious or charitable
20 organization; or

21 (c) a place, building, or conveyance to which the public does not have access if players are publicly
22 solicited or the gambling activity is conducted in a predominantly commercial manner.

23 ~~(34)~~(38) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket
24 to become eligible to win a prize. Winners must be determined by a random selection process approved by
25 department rule.

26 ~~(35)~~(39) "Route operator" means a person who:

27 (a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use
28 in a gambling activity;

29 (b) leases the equipment to a licensed operator for use by the public; and

30 (c) may sell to a licensed operator equipment that had previously been authorized to be operated on a

1 premises.

2 ~~(36)~~(40) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that
3 provides services to senior citizens in the form of daytime or evening educational or recreational activities and
4 does not provide living accommodations to senior citizens. Services qualifying under this definition must be
5 recognized in the state plan on aging adopted by the department of public health and human services.

6 (41) "Simulcast parimutuel network" means a private sector association licensed by the department to
7 operate a parimutuel wagering pool for parimutuel fantasy sports leagues. A simulcast parimutuel network may
8 be authorized by the department to operate a statewide parimutuel wagering pool.

9 ~~(37)~~(42) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device,
10 contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon
11 payment of any valuable consideration, is available to play or operate, the play or operation of which, whether
12 by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the
13 person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything
14 of value, whether the payoff is made automatically from the machine or in any other manner.

15 (b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

16 ~~(38)~~(43) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter
17 and the rules of the department."
18

19 **Section 9.** Section 23-5-801, MCA, is amended to read:

20 **"23-5-801. Fantasy sports leagues and parimutuel fantasy sports leagues defined.** As used in this
21 part, a "fantasy sports league" or a "parimutuel fantasy sports league" means a gambling activity conducted in
22 the following manner:

23 (1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an
24 entrance fee for membership in the league. The entrance fee may include an administrative fee.

25 (2) (a) Each fantasy sports league or parimutuel fantasy sports league member creates a fictitious team
26 composed of athletes from a given professional sport, such as baseball, basketball, or football.

27 (b) (i) Player selection for a fantasy sports league is conducted through random drawings; or a bidding
28 process; or

29 (ii) Player selection for a parimutuel fantasy sports league is conducted by selection from a roster
30 prepared by ~~the~~ a parimutuel network coordinator.

(3) Except for parimutuel fantasy sports leagues ~~operated under Title 23, chapter 4~~, after the initial teams are selected, interim replacement of players may occur by trade or purchase. A specific fee, which may not exceed the total entrance fee, is charged for each transaction.

(4) A method, as defined by league rules, is devised to permit each team to compete against other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period.

(5) A league member may be eligible to receive a payout based on the number of points accumulated. Payouts, which may be in the form of cash or prizes, are awarded according to league rules.

(6) The roster of eligible participants prepared by the parimutuel network must be provided to each parimutuel fantasy sports league member.

(7) Rules governing the conduct of ~~the~~ fantasy sports ~~league~~ leagues and parimutuel fantasy sports leagues must be provided in writing to each league member."

Section 10. Section 23-5-802, MCA, is amended to read:

"23-5-802. Fantasy sports leagues authorized. It is lawful to conduct or participate in a fantasy sports league, including a parimutuel fantasy sports league that is operated under a parimutuel system of wagering ~~regulated under Title 23, chapter 4~~. It is unlawful to wager on a parimutuel fantasy sports league by telephone or by the internet."

Section 11. Section 23-5-805, MCA, is amended to read:

"23-5-805. Payouts -- administrative fees charged by commercial establishments -- allocation. (1) ~~Except as provided in subsection (2)(b), the~~ The total value of payouts to all fantasy sports league members must equal the amount collected for entrance, administrative, and transactions fees, minus payment for administrative expenses.

(2) ~~(a) Except as provided in subsection (2)(b), if~~ If a commercial establishment charges an administrative fee for conducting a fantasy sports league, the fee for each participant may not be more than 15% of the amount charged as a participant's entrance fee.

~~(b) The parimutuel network, as defined in 23-4-101, shall distribute all funds wagered on fantasy sports leagues in any wagering pool pursuant to the requirements of 23-4-302 and 23-4-304.~~

(3) (a) A parimutuel network licensee conducting fantasy sports league wagering shall distribute all funds

1 deposited in the pool to the winner of the parimutuel pool, less the takeout amount of 26% of the total deposits.

2 (b) The takeout amount must be distributed as follows:

3 (i) 30.7692% to the parimutuel facility licensee;

4 (ii) 30.7692% to the parimutuel network licensee as an administrative fee; and

5 (iii) 38.4616% to the department's special revenue account. For fiscal year 2009 no more than \$316,000
6 and for succeeding fiscal years no more than 10% of the amount collected under this subsection (3)(b)(iii) may
7 be appropriated by the legislature for administration of this chapter. The remaining portion collected under this
8 subsection (3)(b)(iii) must be deposited in the health and medicaid initiatives account in the state special revenue
9 fund provided for in 53-6-1201 and may be used only for those purposes set out in 53-6-1201(3)(d) through (3)(f).

10 (c) The odd cents of all redistribution based on each dollar deposited that exceeds a sum equal to the
11 next lowest multiple of 10, known as "breakage", as well as unclaimed winning tickets from each parimutuel pool,
12 must be distributed as follows:

13 (i) 50% to the parimutuel network licensee; and

14 (ii) 50% to the parimutuel facility licensee."

15
16 **Section 12.** Section 23-5-806, MCA, is amended to read:

17 **"23-5-806. Sports betting prohibited -- applicability.** Sections 23-5-801, 23-5-802, and 23-5-805 do
18 not:

19 (1) authorize betting or wagering on the outcome of an individual sports event; or

20 (2) apply to gambling activities governed under Title 23, chapter 4, ~~except for parimutuel facilities,~~
21 ~~parimutuel networks, or simulcast parimutuel networks conducting fantasy sports leagues,~~ or under Title 23,
22 chapter 5, part 2 or 5."

23
24 **Section 13.** Section 53-6-1201, MCA, is amended to read:

25 **"53-6-1201. Special revenue fund -- health and medicaid initiatives.** (1) There is a health and
26 medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be
27 administered by the department of public health and human services.

28 (2) There must be deposited in the account:

29 (a) money from cigarette taxes deposited under 16-11-119(1)(c);

30 (b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and

1 (c) money from wagering on parimutuel fantasy sports leagues deposited under 23-5-805; and

2 ~~(e)~~(d) any interest and income earned on the account.

3 (3) This account may be used only to provide funding for:

4 (a) the state funds necessary to take full advantage of available federal matching funds in order to
5 maximize enrollment of eligible children under the children's health insurance program, provided for under Title
6 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue in this account is
7 intended to increase enrollment rates for eligible children in the program and not to be used to support existing
8 levels of enrollment based upon appropriations for the biennium ending June 30, 2005.

9 (b) a new need-based prescription drug program established by the legislature for children, seniors,
10 chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

11 (c) increased medicaid services and medicaid provider rates. The increased revenue is intended to
12 increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended
13 traditional level of appropriation for medicaid services and medicaid provider rates.

14 (d) an offset to loss of revenue to the general fund as a result of new tax credits;

15 (e) funding new programs to assist eligible small employers with the costs of providing health insurance
16 benefits to eligible employees;

17 (f) the cost of administering the tax credit, the purchasing pool, and the premium incentive payments and
18 premium assistance payments as provided in Title 33, chapter 22, part 20; and

19 (g) providing a state match for the medicaid program for premium incentive payments or premium
20 assistance payments to the extent that a waiver is granted by federal law as provided in 53-2-216.

21 (4) (a) Except for \$1 million appropriated for the startup costs of 53-6-1004 and 53-6-1005, the money
22 appropriated for fiscal year 2006 for the programs in subsections (3)(b) and (3)(d) through (3)(g) may not be
23 expended until the office of budget and program planning has certified that \$25 million has been deposited in the
24 account provided for in this section or December 1, 2005, whichever occurs earlier.

25 (b) On or before July 1, the budget director shall calculate a balance required to sustain each program
26 in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve balance will
27 be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the budget director
28 determines that the reserve balance of the revenue will not support the level of appropriation, the budget director
29 shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating budget for the
30 program to reflect the available revenue as determined by the budget director.

1 (c) ~~Until~~ Except as provided in 23-5-805, until the programs or credits described in subsections (3)(b)
2 and (3)(d) through (3)(g) are established, the funding must be used exclusively for the purposes described in
3 subsections (3)(a) and (3)(c).

4 (5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the
5 appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility
6 standards, services authorized, and payment amount during the past five biennial budgets.

7 (6) The department of public health and human services may adopt rules to implement this section."
8

- END -